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September 25, 1998

**VIA FEDERAL EXPRESS**

Magalie R. Salas, Secretary  
Federal Communications Commission  
1919 M Street NW, Room 222  
Washington, D.C. 20554

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RE: Petition for Agreement with Designation of Rural Company Eligible  
Telecommunications Carrier Service Areas at the Exchange Level and  
for Approval of the Use of Disaggregation of Study Areas for the Purpose  
of Distributing Portable Federal Universal Service Support  
Docket No. CC 96-45; DA-98-1691

Dear Ms. Salas:

Enclosed for filing are an original and six copies of the Reply Comments of Petitioner Washington Utilities and Transportation Commission and Twenty Rural Companies. The original is unbound, per your request. Three copies have been sent to Sheryl Todd, Common Carrier Bureau and one copy to the International Transcription Service, per filing procedures.

We enclose an additional copy of the cover page and request that it be file stamped and returned in the enclosed envelope.

Sincerely,

JEFFREY D. GOLTZ

Sr. Assistant Attorney General

JDG:kl1

Enclosures

cc: All Parties

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of Petition for Agreement with Designation of  
Rural Company Eligible Telecommunications Carrier Service  
Areas at the Exchange Level And for Approval of the Use of  
Disaggregation Of Study Areas for the Purpose of Distributing  
Portable Federal Universal Service Support by:

The Washington Utilities and Transportation Commission, Asotin  
Telephone Company, CenturyTel of Cowiche, Ellensburg  
Telephone Company, CenturyTel of Washington, Hat Island  
Telephone Company, Hood Canal Telephone Co., Inc., Inland  
Telephone Company, Kalama Telephone Company, Lewis River  
Telephone Company, Mashell Telecom, Inc., McDaniel Telephone  
Company, Pend Oreille Telephone Company, Pioneer Telephone  
Company, St. John, Co-operative Telephone And Telegraph  
Company, Tenino Telephone Company, The Toledo Telephone  
Co., Inc., United Telephone Company of the Northwest, Western  
Wahkiakum County Telephone Company, Whidbey Telephone  
Company, and Yelm Telephone Company

CC Docket No. 96-45  
DA 98-1691

**REPLY COMMENTS OF PETITIONER  
WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION AND  
TWENTY RURAL TELEPHONE COMPANIES**

## I.

### INTRODUCTION

The Co-Petitioners, Washington Utilities and Transportation Commission (WUTC) and twenty rural telecommunications companies<sup>1</sup> file these reply comments in response to comments filed in response to our Petition. That Petition contains two parts. The first part seeks agreement by the Commission with the WUTC's designation of rural companies' service areas as their respective individual exchanges. The second part seeks a waiver of the current method for "porting" federal universal service support and approval for the use of disaggregation of study areas for purposes of distributing such support. We refer to these two parts of our Petition as the "ETC Petition" and the "Disaggregation Petition" respectively.

The purpose of our Petition is to implement the policies of the Telecommunications Act of 1996 (Federal Act), 47 U.S.C. §151 et seq., to facilitate the introduction of local exchange competition into areas served by rural telephone companies in Washington. By designating service areas as the companies' respective exchanges, potential competitors would have easier entry into the rural telecommunications market. By disaggregating universal service support

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<sup>1</sup> The twenty petitioning rural companies are: Asotin Telephone Company, CenturyTel of Cowiche, Ellensburg Telephone Company, CenturyTel of Washington, Hat Island Telephone Company, Hood Canal Telephone Co., Inc., Inland Telephone Company, Kalama Telephone Company, Lewis River Telephone Company, Mashell Telecom, Inc., McDaniel Telephone Co., Pend Oreille Telephone Company, Pioneer Telephone Company, St. John, Co-operative Telephone And Telegraph Company, Tenino Telephone Company, The Toledo Telephone Co., Inc., United Telephone Company of the Northwest, Western Wahkiakum County Telephone Company, Whidbey Telephone Company, and Yelm Telephone Company.

within each exchange into “core” and “fringe” area, such competitors would have less incentive to serve only the lower cost customers within the various rural exchanges.<sup>2</sup>

## II.

### SUMMARY OF COMMENTS

In general, all parties except the United States Telephone Association (USTA) support the concept of furthering competition in the rural areas by reducing the size of service areas and by better targeting support to account for cost differentials within the exchange.<sup>3</sup> USTA does not oppose the concept, but rather argues that this is too big a policy change to be considered in this Petition.<sup>4</sup> Further, a number of parties supporting the concept express some reservations about either the proposed methodology for disaggregation of averaged support or the “precedent” that Commission approval of the Petition may set.

GTE Service Corporation and its affiliated companies (GTE) support the Petition, but only if its “Contel Washington” study area is included. It further cautions the Commission

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<sup>2</sup>The twenty rural companies who are co-petitioners support the Petition so long as both parts of the Petition are granted. Petition for Agreement with Designations of Rural Company Eligible Telecommunications Carrier Service Areas at the Exchange Level and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support (Petition) at 1, n.2, 14, n.20.

<sup>3</sup>Comments of Western Wireless Corp. (Western Wireless Comments) at 3; Comments of GTE (GTE Comments) at 4, 5, 6; Comments of TDS Telecommunications Corp., Inc. (TDS Comments) at 2; Comments of Sprint Corp. (Sprint Comments) at 3; Comments of TCA, Inc. (TCA Comments) at 2; Comments of the Rural Telephone Association (RTA Comments) at 2; The Idaho Public Utilities Commission’s Comments Filed in Response to the Joint Petition of Washington Utilities and Transportation Commission and Twenty Rural Telecommunications Companies (Idaho PUC Comments) at 2.

<sup>4</sup>Comments of the United States Telephone Association (USTA Comments) at 2.

against unbridled experimentation by the States in this area, presumably because it fears facing fifty different methods for determining universal service support. GTE Comments at 2-3.

However, GTE goes on to state that it “has consistently maintained that universal service obligations, and commensurate support, should be defined for small geographic areas,” and calls the Petition “an incremental improvement over the current approach.” Id. at 5. It also suggests a refinement to the disaggregation proposal which would divide a wire center into zones (“grid squares”) to more accurately target universal service support.” Id. at 6-7.

TDS Telecommunications Corporation (TDS) (which owns three of the petitioning rural companies, TDS Comments at 1), supports the Petition “as a first step.” Id. at 2. It advocates ultimate adoption of a methodology which would accomplish further disaggregation beyond the proposal. Id. at 6.

Telecom Consulting Associates (TCA) supports the Petition so long as disaggregation is ordered and, like TDS, sees this as a “good first step.” TCA Comments at 3. It also cautions the Commission against approving any specific method for disaggregation. Id. at 4.

The Rural Telephone Coalition (RTC) supports the Petition but has “serious reservations about the apparent negotiation that underlies the petitioners’ request.” RTC Comments at 2. While it does not elaborate on its suspicions, it apparently is wary that the rural company petitioners somehow were coerced into supporting the joint ETC Petition in return for the Disaggregation Petition.<sup>5</sup>

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<sup>5</sup> We are puzzled about RTC’s suspicions. The petitioning rural companies did oppose the WUTC action to designate ETC service areas at the wire center or exchange level. Many still are philosophically opposed to that step. However, we collectively represent to the Commission that the development of this Petition was a consensual process.

USTA characterizes the issues raised in the Petition as being so complex and significant that they should not be decided in the context of this Petition and in the time frame allowed. Accordingly, they decline to comment on the substance. USTA Comments at 3-4.

The Idaho Public Utilities Commission (Idaho PUC) supports the Petition, but bases its endorsement on the fact that state commissions “are directly familiar with the geography, the competitive forces, customer demands, population forecasts and other individual factors that should be considered in determining whether the definition of a rural company’s service area should be changed.” Idaho PUC Comments at 3. Therefore, we presume that while the Idaho PUC supports our Petition, it cautions the Commission on imposing our approach on the nation.

Western Wireless and Sprint apparently support the Petition without qualification.

Essentially, the commenters raise three sets of issues:

1. Whether the Commission should defer consideration of the Petition due to concern about the proposal being a “first step,” an “experiment,” or too large a policy change;
2. Whether the Commission should refine the disaggregation methodology to include the “grid system” proposed by GTE; and
3. Whether the Commission should decline to approve the Petition because of GTE’s concern that the exchanges in its Contel Study area were not formally included in the request in the Petition for Commission concurrence in the exchange level ETC designation.

### III.

#### RESPONSE TO COMMENTS

##### A. Approving Our Petition Would Foster Both Competition and Universal Service.

Several commenters either endorsed our Petition as a “first step” or expressed caution that the proposed ETC designations and disaggregation methodology should not become the national model for the future.<sup>6</sup> Indeed, the USTA suggests that this matter is too complicated and far reaching to be considered in this proceeding. It suggests that “[t]he Commission cannot allow such significant policies to be modified in the context of a single state’s study area waiver request.” USTA Comments at 2-3.

The USTA overreacts. We do not advocate the setting of new permanent national telecommunications policy. This is a petition for a waiver, in effect an experiment.<sup>7</sup> It is no more than a “first step” and is not intended to be precedent setting.

Granting this Petition would not make new “significant policies.” Rather, it would take a step toward implementing the significant policy directives of the Federal Act and similar

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<sup>6</sup>E.g., TDS Comments at 1; TCA Comments at 3.

<sup>7</sup> GTE suggests that the Commission set limits on states’ experimentation should it approve the Petition, apparently fearful of fifty states and various territories launching their own unique programs. GTE Comments at 7. We do not share GTE’s concerns. We do not view the granting of this Petition as opening up the floodgates to state-specific suggestions. All we suggest is that should states reach a consensual approach with the rural companies in their states and propose a reasonable disaggregation method, the Commission should be receptive to those proposals. These state “laboratories” may produce the model that will work for the nation.

Washington State initiatives<sup>8</sup> to facilitate competition in the rural local telecommunications market. Granting the ETC Petition would reduce barriers to entry posed by large rural service areas, which under the federal law a competitor must serve. By reducing the size of these areas, a significant barrier to entry is minimized. Granting the concurrent Disaggregation Petition would complement the ETC Petition by minimizing the risk of new competitors in rural study areas skimming off selected customers in the low-cost portions of those study areas and receiving universal service funds for their efforts.<sup>9</sup>

This Petition is not intended to direct the Commission toward a prejudgment of other potential solutions to the problems created by the coexistence of competition and universal service in rural areas. However, it is intended to permit a State-company cooperative attempt at solving that problem in Washington and to allow the Commission to monitor the progress of this attempt and learn from it. Though this indeed is no more than a “first step,” it is one that may inform the march toward full implementation of the policies of the 1996 Act.

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<sup>8</sup>As stated in our Petition, Washington’s policies favoring competition in the local exchange predate the Federal Act. See Petition at 89, n.12.

<sup>9</sup>TDS and RTC suggest that the Commission also act on various petitions to reconsider the Commission’s Universal Service Order in CC Docket No. 96-45. We do not read their comments as suggesting that the Commission defer action on this Petition to the more general Universal Service proceeding. The Commission can grant this Petition now. Should later a more generic proceeding result in a more “global” solution, then the WUTC and the co-petitioning companies can revisit the methodology proposed here.



**B. The "Grid System" Methodology Suggested by GTE Is Not Before the Commission and Should Be Considered in Future Proceedings.**

GTE suggests an alternative methodology using a "grid system" instead of the disaggregation methodology proposed. GTE Comments at 6-7. Had GTE participated in the lengthy workshops the WUTC and the twenty petitioning companies held to develop the proposal, we might have considered its proposed grid methodology. It may be appropriate for consideration in other states or by the FCC as it examines various generic solutions. However, it should not be considered by the Commission at this time.

**C. The Fact that the Petition Did Not Include a Request for Concurrence Regarding GTE's Contel Study Area Should Not Delay Commission Action on this Petition.**

GTE also raises a procedural technicality by complaining that its rural "Contel" exchanges were omitted from the scope of our ETC Petition. The WUTC granted ETC status just as GTE requested. Unlike the requests from the petitioning rural carriers, GTE made no mention of its rural status.<sup>10</sup> When the WUTC designated the service areas, it assumed GTE to be a "non-rural" company and designated it as such.<sup>11</sup> GTE never contested that designation.

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<sup>10</sup>In its December 23, 1997, Order Designating Eligible Telecommunications Carriers, attached to the Petition as Appendix A (ETC Order), the WUTC stated:

All Petitioners except US West, GTE, and U.S. Cellular have certified that they qualify as rural telephone companies as defined in 47 U.S.C. §153(47) and 47 C.F.R. §51.5. The Commission finds that such certifications are appropriate.

ETC Order at 16.

<sup>11</sup>The WUTC stated:

For non-rural companies, the appropriate service areas are the individual exchanges for which they petitioned, designated on an individual basis, effective January 1, 1998.

Indeed, based on GTE's Comments, GTE only certified to the Commission that it is a rural company on April 28, 1998, four months after the WUTC order.

Therefore, GTE is correct that our Petition does not include concurrence with a service area designation at the exchange level for GTE's Contel exchanges. In light of GTE's subsequent certification of its Contel study area as rural, upon petition from GTE, or on the WUTC's own motion, it is possible for the WUTC to revise its earlier designation to clarify that GTE's Contel exchanges should be designated at the study area level through 1998 and thereafter at the exchange level. Thereafter, the WUTC would file a petition with the FCC for concurrence with this approach. As suggested by GTE, the WUTC will work with GTE on this issue.

However, even without GTE's Contel exchanges being formally included in this Petition, GTE's procedural concerns should not delay approval of this Petition. There is no legal or policy reason for delay. Granting the Petition, as it stands, would apply to the exchanges of the twenty petitioning rural companies.

#### IV.

#### CONCLUSION

Though some commenters urged caution about implementing a disaggregation methodology which may set precedent for the nation, the Commission need not be so concerned. Our proposal is a "first step." While we are pleased with this consensus approach, we recognize that there may be better solutions down the road. But customers in rural Washington should not have to wait for the perfect solution. They are entitled to the benefits of the Federal Act now,

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ETC Order at 16.


and the consensus approach here proposed provides an opportunity for those rural customers to share in the benefits of competition.

The Commission should approve the Petition.

Dated, this 25th day of September, 1998.

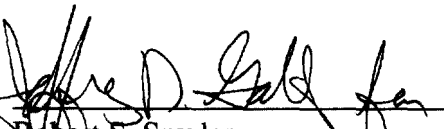
Respectfully submitted,

CHRISTINE O. GREGOIRE  
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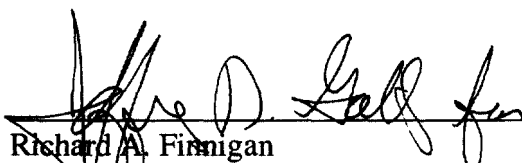
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# CERTIFICATE OF SERVICE

I certify this day that I served a copy of the foregoing Reply Comments of Petitioner Washington Utilities and Transportation Commission and Twenty Rural Companies upon the parties listed below via U.S. mail, postage prepaid:

DATED this 25th day of September, 1998.



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